

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JOHNNY B. BLANTON, #0574106,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:21-cv-481-JDK-KNM
	§	
MEDICAL DEPARTMENT, et al.,	§	
	§	
Defendants.	§	
	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Johnny B. Blanton, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

On March 3, 2022, Judge Mitchell issued a Report and Recommendation recommending that the Court dismiss this case without prejudice for Plaintiff's failure to comply with the Court's order to submit the \$185.00 initial, partial filing fee. Docket No. 12. Judge Mitchell further recommended that the statute of limitations in this case be suspended for a period of sixty days from entry of final judgment. *See Campbell v. Wilkinson*, 988 F.3d 798, 801 n.1 (5th Cir. 2021).

Plaintiff filed timely objections. Docket No. 14. Judge Mitchell then granted Plaintiff a second extension of time in which to submit the \$185.00 initial, partial filing fee, ordering Plaintiff to submit the fee by April 13, 2022 and warning him that

failure to comply may result in the dismissal of his lawsuit. Docket No. 15. The docket reflects that Plaintiff received a copy of this order on March 29, 2022. Docket No. 16. To date, however, no filing fee has been received—despite two extensions of time in which to do so.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his objections to Judge Mitchell’s March Report, Plaintiff explained that he “understood” that his family was paying the initial, partial filing fee and requested an extension. Plaintiff was then granted an extension in which to submit his fee, but no filing fee has been received and Plaintiff has not indicated that he is financially unable to submit the fee.

Having conducted a de novo review of the record in this case and the Magistrate Judge’s Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff’s objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 12) as the opinion of the District Court. Plaintiff’s claims are **DISMISSED** without prejudice for failure to comply with a Court order. Finally, the statute of limitations

is hereby **SUSPENDED** for a period of sixty days from the date of the Final Judgment.

So **ORDERED** and **SIGNED** this **9th** day of **May, 2022**.

A handwritten signature in black ink, appearing to read "Jeremy D. Kernodle", is written over a horizontal line.

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE